

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JUDITH A. AIELLO,

Plaintiff,

vs

5:06-CV-1021

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY & SHURTLIFF
Attorneys for Plaintiff
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SOCIAL SECURITY ADMINISTRATION
Office of Regional General Counsel
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New York, NY 10278

VERNON NORWOOD, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff filed this action in August 2006, pursuant to 28 U.S.C. § 636(b) and Local rule 72.3(d). By Report-Recommendation dated December 18, 20087, the Honorable Gustave J. DiBianco, United States Magistrate Judge, recommended that the decision of the Commissioner be reversed, and the case be remanded for a proper determination of plaintiff's RFC consistent with the Report, analysis of credibility, and development of the record. No objections have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge DiBianco, the Report-Recommendation is accepted and adopted in whole.

See 28 U.S.C. 636(b)(1). Accordingly, it is

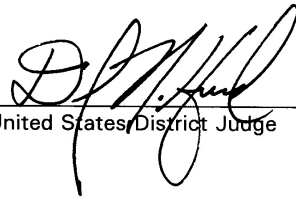
ORDERED that

1. The decision of the Commissioner is REVERSED;
2. This matter is REMANDED to the Commissioner for further proceedings

consistent with the Report-Recommendation.

IT IS SO ORDERED.

Dated: January 9, 2009
Utica, New York.



United States District Judge